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12

13 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA

14 UELIAN DE ABADIA-PEIXOTO, ESMAR
15 CIFUENTES, PEDRO NOLASCO JOSE, and
16 MI LIAN WEI on behalf of themselves and all
others similarly situated,

17 Plaintiffs,

18 vs.

19 JANET NAPOLITANO, Secretary of the
20 Department of Homeland Security, UNITED
STATES IMMIGRATION AND
21 CUSTOMS ENFORCEMENT, JOHN T.
MORTON, Director of U.S. Immigration
and Customs Enforcement, TIMOTHY
AITKEN, Field Office Director of the San
Francisco District of U.S. Immigration and
Customs Enforcement, ERIC H. HOLDER,
JR., Attorney General, THE EXECUTIVE
OFFICE FOR IMMIGRATION REVIEW,
25 and JUAN P. OSUNA, Acting Director of
the Executive Office for Immigration
Review,

27 Defendants.

1 Case No. 11-cv-4001 (RS)

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**NOTICE OF MOTION AND MOTION
FOR LEAVE TO FILE BRIEF OF
AMICUS CURIAE THE ASIAN LAW
CAUCUS, CENTRO LEGAL DE LA
RAZA, AND DOLORES STREET
COMMUNITY SERVICES REGARDING
DEFENDANTS' MOTION TO DISMISS**

NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT the Asian Law Caucus; Centro Legal De La Raza; and Dolores Street Community Services hereby move this Court for leave to file an *amicus curiae* brief in the above-captioned case regarding Defendants' Motion to Dismiss (Dkt. 33).

MEMORANDUM OF POINTS AND AUTHORITIES

Amicus curiae the Asian Law Caucus, Centro Legal De La Raza, and Dolores Street Community Services are non-profit organizations dedicated to preserving and enforcing civil rights and liberties. These organizations have extensive experience dealing with immigration policy, collectively having represented more than 600 detainees in the last 5 years.

Amici respectfully request leave to file an amicus brief to apprise the Court of public interest considerations implicated by Defendants' Motion to Dismiss and the case at bar concerning whether Immigration and Customs Enforcement's (ICE) shackling policy is unconstitutional. This Court has stated before that, "District courts frequently welcome amicus briefs from non-parties concerning legal issues that have potential ramifications beyond the parties directly involved or if the amicus has unique information or perspective that can help the court, beyond the help that the lawyers for the parties are able to provide." *Sonoma Falls Devs., LLC v. Nev. Gold & Casinos, Inc.*, 272 F. Supp. 2d 919, 925 (N.D. Cal. 2003) (quoting *Cobell v. Norton*, 246 F. Supp. 2d 59, 62 (D.D.C. 2003)). In this case, the effects of a dismissal of Plaintiffs' case would be far-reaching and would have important consequences for all ICE detainees, many of whom are represented by *amici*. Due to its leadership and extensive experience with immigration policy, *amici* believe that they are uniquely positioned to describe the broader implications of the important decision before the Court.

1 Counsel for *amici* contacted the parties prior to filing this motion. Counsel for Plaintiffs
2 indicated that they do not oppose this motion for leave to file an opposition brief on behalf of
3 *amici*.. Counsel for Defendants indicated that they were not initially opposed to the motion, and
4 would advise if they determined to oppose (no such advisory has occurred as of the time of
5 filing).

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7 For the foregoing reasons, the Asian Law Caucus, Centro Legal De La Raza, and Dolores
8 Street Community Services respectfully request this Court's leave to submit the attached brief.
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10 Dated: November 1, 2011

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on November 1, 2011, upon the following:

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